

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS FULLER, A/K/A RALEEM-X,
ALYCIA WILEY, TIERRA THOMAS,
and DIONDRE THOMAS,

v.

Case No. 2:15-cv-14065
Honorable Victoria A. Roberts

PCS DAILY DIAL PHONE COMPANY,

Defendant.

**ORDER DISMISSING THE COMPLAINT AND DENYING THE
APPLICATIONS TO PROCEED WITHOUT PREPAYMENT OF THE FILING FEE**

This matter is before the Court on the plaintiffs' *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 and the Michigan Consumer Protection Act. State prisoner Curtis Fuller, who is proceeding under his alias Raleem-X, is confined at the Marquette Branch Prison in Marquette, Michigan. Plaintiff Diondre Thomas also is a state inmate, and he is confined at the St. Louis Correctional Facility in St. Louis, Michigan. The other two plaintiffs, Alycia Wiley and Tierra Thomas, are citizens living in Detroit and Inkster, Michigan, respectively. The complaint alleges that defendant PCS Daily Dial Phone Company is wrongfully interfering with the plaintiffs' ability to make phone calls to each other. Plaintiffs seek a total of \$1,200,000 in damages.

Plaintiff Curtis Fuller submitted the pending complaint to the Court on November 9, 2015, and on November 16, 2015, the Clerk of the Court filed the complaint. The complaint is identical to a complaint that the plaintiffs filed on September 28, 2015. *See Raleem-X, et al. v. PCS Daily Dial Phone Company*, No. 15-13620 (E.D. Mich. 2015). The Court dismissed that

action on October 23, 2015, because the plaintiffs did not prepay the filing fee, and three of the four plaintiffs (Alycia Wiley, Tierra Thomas, and Diondre Thomas) did not submit proper documentation in support of a request to proceed *in forma pauperis*. As to the lead plaintiff, Curtis Fuller, the Court determined that he could not proceed without prepayment of the filing fee because he has three “strikes” under 28 U.S.C. § 1915(g) and was not in imminent danger of serious physical injury.¹ In addition to these problems, the Court expressed concern about prisoners filing a joint complaint.

The complaint presently before the Court is a duplicate lawsuit. When “[f]aced with a duplicative suit, the federal court may exercise its discretion to stay or dismiss the suit before it, allow both federal cases to proceed, or enjoin the parties from proceeding in the other suit.” *Twaddle v. Diem*, 200 F. App’x 435, 438 (6th Cir. 2006).

The plaintiffs’ previous case (2:15-cv-13620) is closed, and the plaintiffs have not cured the procedural deficiencies apparent in their previous case. They have not paid the filing fee, and three of the four plaintiffs have not signed applications to proceed without prepayment of the filing fee. Nor have they filed the proper documentation to support applications to proceed *in forma pauperis*. Plaintiff Curtis Fuller, moreover, may not proceed without prepayment of the filing fee due to his prior “strikes.” Plaintiff Tierra Thomas also has not signed the complaint,

¹ Section 1915(g) reads:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

and the plaintiffs have not addressed the Court's concern about their filing a joint complaint. Accordingly, in the exercise of discretion,

IT IS ORDERED that this case is summarily **DISMISSED**.

IT IS FURTHER ORDERED that plaintiff Curtis Fuller's applications to proceed *in forma pauperis* (ECF Nos. 2 and 4) are **DENIED**.

S/Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Dated: 2/12/2016